

REMARKS

This is in response to the Office Action mailed on February 20, 2007. The Office Action indicated that Claims 1-27 were pending and rejected. The Office Action was made Final. With this Response, no amendments are made to the Claims, and Claims 1-27 are presented for reconsideration and allowance.

Claim rejections - 35 U.S.C. §103

Claims 1-27 were rejected under 35 U.S.C. §103(a) as being unpatentable over Hodge et al. (U.S. Pub. No. 2004/0252397) in view of Millikan et al. (U.S. Patent No. 6,928,039).

The Examiner suggests that Millikan teaches a “variable time-to-fill estimate as a function of a sensor output” as presently claimed in Claims 1, 15 and 24. The Examiner’s remarks do not refer to any specific item in Millikan that that might correspond to a “variable time-to-fill estimate as a function of a sensor output”. The Examiner’s remarks allude only to over 50 lines of text that do not mention the term “time-to-fill estimate”. It is not clear what the Examiner finds in Millikan that might correspond with a “time-to-fill estimate”. The Millikan reference does mention a “CD player restart time” at Millikan column 4, lines 6-21. Millikan teaches, however at column 4, lines 19-21 that “the length of the CD player restart time is a known quantity and can be determined for each CD player.” Millikan also teaches at column 4, lines 14-17 that “the CD player restart time will typically include an additional time cushion to insure that any glitch or delay in restarting the CD player does not affect the quality of audio playback.” The teaching of Millikan suggest only a fixed CD player reset time with “an additional time cushion” rather than “a variable time-to-fill estimate as a function of a sensor output” as presently Claimed in Claims 1, 15 and 24. Millikan teaches a fixed “CD player restart time” instead of a “variable time-to-fill estimate as a function of a sensor output” as presently claimed in Claims 1, 15 and 24. A CD player restart time is not the same thing as a variable time to fill estimate as a function of a sensor output. Neither Millikan et al. nor Hodge et al., taken

singly or in combination, teach or suggest a "variable time-to-fill estimate as a function of a sensor output" as presently claimed in Claims 1, 15 and 24.

Claims 1, 15 and 24 are thus believed to be nonobvious and patentable. Withdrawal of the rejections of Claims 1, 15 and 24, and reconsideration and allowance of Claims 1, 15 and 24 are therefore requested. The dependent Claims 2-24, 16-23, 25-27 include additional limitations that, when taken in combination with the base claims 1, 15 or 24 are also believed to be patentable. Withdrawal of the rejections of Claims 2-24, 16-23, 25-27 and reconsideration and allowance of Claims 2-24, 16-23, 25-27 are requested.

Conclusion

The Application appears to be in condition for allowance and favorable action is requested. The Director is authorized to charge any fee deficiency required by this paper or credit any overpayment to Deposit Account No. 23-1123.

Respectfully submitted,

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